

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, November 1, 2007

Division Two

A113796 – The People v. Eugene Snow.

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

Division Five

A117044 – In re Andrew F., a Person Coming Under the Juvenile Court Law. The People v. Andrew F.

The case is remanded to the juvenile court to declare whether appellant's offenses are misdemeanors or felonies, as required by Welfare and Institutions Code section 702 and rules 5.780(e)(5) and 5.790(a)(1) of the California Rules of Court. In other respects, the jurisdictional and dispositional orders are affirmed. Needham, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Friday, November 2, 2007

Division Two

A119429 – Foster Wheeler LLC v. The Superior Court of San Francisco County; Jersey Gray et al., R.P.I.

By the Court: We have reached our decision after notice to all parties that we might act by issuing a peremptory writ in the first instance. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 177-189.) The entitlement to relief is obvious and there is a compelling need for immediate action. (See *Alexander v. Superior Court* (1993) 5 Cal.4th 1218, *Ng. v. Superior Court* (1992) 4 Cal.4th 29.) Accordingly, let a peremptory writ of mandate issue commanding respondent court to vacate its order consolidating its order of October 16, 2007, consolidating for purposes of trial *Judy Oxford, et al. v. Asbestos Defendants (B-P)*, San Francisco Superior Court Case No. CGC-05-440328, with *Jersey Gray, et. al. v. Asbestos Defendants (B-P)*, San Francisco Superior Court Case No. CGC-07-274042. The temporary stay of the order previously imposed is hereby dissolved. Petitioner is awarded costs. (Cal. Rules of Court, rule 8.490(m).) Our decision is final as to this court immediately. (See Cal. Rules of Court, rule 8.264(b)(3).) Before Kline, P.J., Lambden, J., and Richman, J. (Not for Publication.)

A117608 – The People v. Darwin B. Taylor.

Having rejected the issues raised by defendant, and our independent review having found no arguable issues that require briefing, the judgment of conviction is affirmed. Richman, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A113662 – Mohammad Kashmiri et al. v. The Regents of the University of California.

The judgment is affirmed. The Regents are to pay the costs of appeal. Lambden, J. We Concur: Haerle, Acting P.J., Richman, J. (Certified for Publication.)

A115682 – In re Ray L., a Person Coming Under the Juvenile Court Law. Contra Costa County Children & Family Services Bureau.

The June 21, 2006 order finding jurisdiction over Ray is reversed. The October 18, 2006 dispositional order is thus moot. Richman, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A115786 – In re the Marriage of Myrna Dolores Banks and Craig Anthony Banks. Myrna Dolores Banks v. Craig Anthony Banks.

The judgment, which is amply supported by the evidence, is affirmed. Respondent is awarded costs on appeal. Kline, P.J. We Concur: Haerle, J., Richman, J. (Not for Publication.)

Monday, November 5, 2007

Division One

A117646 – City of Oakland v. The Superior Court of Alameda County; Clarence Mabanag et al., R.P.I.

In the unique circumstances of this case, the superior court correctly concluded that the MOU fails to provide a method for the selection of an arbitrator. Therefore, the parties were required by section 1281.6 and by the court's February 21, 2007 order, to attempt to agree on a method for the selection of one. On this record, that attempt failed as well. The superior court properly implemented the default section procedures specified in section 1281.6, a procedure to which the parties consented in the petition and answer.

The alternative writ, having served its purpose, is recalled and discharged. The petition for writ of mandate is denied. The stay previously imposed shall be dissolved automatically when this opinion is final as to this court. Real parties in interest shall recover their costs. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A104987 – The People v. Armondo Gib Ortega.

The judgment of conviction is affirmed. Haerle, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Five

A114602 – The People v. Linda Michelle Garner.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Needham, J. (Not for Publication.)

A116614 – In re Julia E., a Person Coming Under Juvenile Court Law. Mendocino County Department of Social Services v. Jennifer E.

The orders are affirmed. Simons, Acting P.J. We Concur: Gemello, J., Needham, J. (Not for Publication.)

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Tuesday, November 6, 2007

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, Presiding Justice, Swager, Justice, Margulies, Justice, and Mary Quilez, Deputy Clerk.

- A113421 The People,
 v.
 Charles Riley Branch.
Cause called and argued by James Kyle Gee, counsel for appellant and Linda M. Murphy, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A114623 Cold Creek Compost Inc., et al.,
 v.
 State Farm Fire and Casualty Co.
Cause called and argued by Carolyn Johnston, counsel for appellants and Mark A. White, counsel for respondent. Cause ordered submitted.
- A111267 Re: DFS Cases.
and Cause called and argued by Ethan P. Schulman, counsel for appellant and Brett
A112153 Schuman, counsel for respondent. Cause ordered submitted.
- A114773 Maria Velasquez, et al.,
 v.
 Monika Khusf.
Cause called and argued by Paul Utrecht, counsel for appellant and John Edward Carey Jr., counsel for respondents. Cause ordered submitted.

Court recessed until 1:30 p.m.

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Tuesday November 6, 2007

The Court convened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, Presiding Justice, Stein, Justice, Margulies, Justice, and Mary Quilez, Deputy Clerk.

A116300 The People,
 v.
 Fernando Lopez Lopez.
Cause called and argued by Jonathan Berger, counsel for appellant and David M. Baskind, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A113902 Nicholas Panoutsopoulos,
 v.
 Denise Chambliss, et al.
Cause called and argued by Philip S. Ward, counsel for appellants and Nick T. Recklas, counsel for respondent. Cause ordered submitted.

A114652 Gary P. Poon,
 v.
 Gordon M. Poon.
Cause called and argued by Adrian J. Sawyer, counsel for appellant and David de Jesus, counsel for respondent. Cause ordered submitted.

Court adjourned.

Tuesday, November 6, 2007

Division Five

A112207 – The People v. Jonathan Ray Hylton.

The judgment is reversed and the matter is remanded for resentencing. Gemello, J. We
Concur: Jones, P.J., Simons, J. (Not for Publication.)

Wednesday, November 7, 2007

Division One

A115586 – In re K.B. et al., Persons Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services v. Kimberly J.

The order terminating Mother's parental rights is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Two

A115371 – The People v. Douglas Anderson.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Four

A114974 – Kathleen Mary Jones v. Richard E. Beckman et al.

By the Court: Order Modifying Opinion. On the court's own motion, it is ordered that the opinion filed herein on October 16, 2007, be modified as follows: (See order.) There is no change in the judgment. Respondent's petition for rehearing is denied. The parties' for publication are denied. Ruvolo, P.J.

Division Five

A111526 – The People v. Henry Fonseca.

The convictions are affirmed. Gemello, J. We Concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

Thursday, November 8, 2007

Division One

A115807 – The People v. Michael J. Hoisington.

By the Court: It is ordered that the opinion filed herein on October 19, 2007, be modified as follows: (See order.) There is no change in judgment. Defendant's petition for rehearing is denied. Stein, Acting P.J.

A116835 – The People v. Joel W. Marsall.

After a full review of the record, we find no arguable issues and, accordingly, affirm the judgment. The matter is remanded to the trial court with instructions to prepare an amended abstract of judgment showing total custody credits of 740 days. The trial court is also directed to forward a copy of the corrected abstract of judgment to the Department of Corrections. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Four

A115237 – The People v. Bryan Mazza.

The judgment is modified to reflect that defendant has 498 days of presentence credits, consisting of 332 days in actual custody and 166 days in conduct credits. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections. In all other respects, the judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Division Five

A113310 – The People v. Sue Carole Dillon et al.

The judgment of conviction on count three are reversed as to Sue Dillon and Patrick Dillon. The judgments are affirmed on counts one and two. Jones, P.J. We Concur: Simons, J., Needham, J. (Certified for Partial Publication.)

Friday, November 9, 2007

Division One

A117053/A117662 – In re Victoria M., a Person Coming Under the Juvenile Court Law. The People v. Victoria M.

The dispositional order is affirmed. The order denying defendant's petition for modification is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

A114442 – Lisa Murphy v. Check 'N Go of California, Inc.

By the Court: Order Modifying Opinion. It is ordered that the opinion filed herein on October 17, 2007, be modified as follows: (See order.) These modifications do not change the judgment. Marchiano P.J. (Certified for Publication.)

A115342 – The People v. Natalie C. Rocha.

The case is remanded to the trial court with directions to correct the minute order and order of probation to reflect the court's oral pronouncement of the condition of probation that defendant "not be employed in any position that handles cash or finances of the employer." The judgment is otherwise affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Three

A114438 – Arnold S. Malter v. Joan Malter Osburn.

The order granting Osburn's special motion to strike pursuant to section 425.16 is affirmed. Osburn shall recover her costs on appeal. McGuiness, P.J. We Concur: Pollak, J., Horner, J.* (Not for Publication.)

Division Four

A114670 – Jennifer Newsom v. Frank Annicelli, et al.

The judgment is affirmed. Rivera, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Division Five

A113341 – Jose Ortega v. Contra Costa Community College District.

A114313 – Jose Ortega v. Contra Costa Community College District.

The judgments are reversed and the cases remanded for further proceedings. Costs shall be awarded to appellant. Simons, J. We Concur: Jones, P.J., Needham, J. (Certified for Publication.)

* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, November 13, 2007

Division One

A116300 – The People v. Fernando Lopez Lopez.

The judgment is reversed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A118853 – The People v. Jermel Holloway.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

A104728 – The People v. Nicholas John Martinez, Jr.

The judgment is reversed and the matter is remanded for resentencing. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Two

A114235 – The People v. McKinley William Garry.

The trial court's judgment in case No. VCR178540 and its probation modification order in case No. VCR178540 are reversed, and the matters remanded for further proceedings consistent with this opinion. Lambden, J. We Concur: Kline, P.J., Richman, J. (Certified for Publication.)

Division Four

A106919 – The People v. Collie George Downer.

Appellant's sentence is reversed and the case is remanded to the trial court with directions to resentence defendant in accordance with *Cunningham*, *Black* and *Sandoval*. In all other respects, the judgment is affirmed. Ruvolo, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A118306 – The People v. Alonzo Lorenzo Lewis.

We affirm. Ruvolo, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, November 13, 2007

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P.J., Reardon, and Rivera, J.; Jacqueline Alameda, Deputy Clerk; CHP Officer Christian Oliver, Bailiff.

- A117258 Eileen Heaton, et al
 v.
 Joey Luis Alindajao, et al
 Cause called. Jeffrey Isaac Ehrlich argued for appellants Heaton, et al. Michelle Burton argued for respondent. Pacific Specialty Insurance Company.
- A116233 In re Jose G., a minor.
 People
 v.
 Jose G.
 Cause called. Jeffrey Kobrick argued for appellant Jose G. Michael Banister argued for respondent. Cause submitted.
- At this point, the court reconstituted itself to include Ruvolo, P.J., Reardon, J., and Sepulveda, J.
- A113752 Iola Frastaci, et al
 v.
 AC and S, Inc.
 Cause called. Ted Pelletier argued for appellants Frastaci, et al. Jones, P.J. Orndorff argued for respondent. Cause submitted.
- A115018 Paula Fiscal, et al
 v.
 C.C.S.F., et al
 Cause called. Wayne K. Snodgrass argued for appellants City and County of San Francisco, et al. C.D. Michel argued for respondents. Cause submitted.

Court adjourned until 1:30 p.m.

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, November 13, 2007

The Court convened at 1:30 p.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P.J., Reardon, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Shelley Aldridge, Bailiff.

- A116083 In re the Marriage of Barthold.
 Aubin Barthold
 v.
 Catherine Barthold
Cause called. Robert Roth argued for appellant Aubin Barthold. Garrett Daily argued for respondent. Cause submitted.
- At this point, the court reconstituted itself to include Ruvolo, P.J., Sepulveda, J. and Rivera, J.
- A113388 Winston Lambert et al.
 v.
 Chris Carneghi et al.
Cause called. E. Craig Moody argued for appellants Lambert et al. Jones, P.J. P. Tonsing argued for respondents. Cause submitted.
- A115868 Computer Service Tax Cases
Cause called. Michael Sorgen argued for appellants. Julian Standen argued for respondents. Cause submitted.
- At this point, the court reconstituted itself to include Ruvolo, P.J., Reardon, J., and Rivera, J.
- A115998 In re Roberto R., a minor.
 v.
 Roberto R.
Cause called. Sara Zimmerman argued for appellant Roberto R. Ronald Niver argued for respondent. Cause submitted.

At this point, the court reconstituted itself to include Reardon, Acting P.J., Sepulveda, J., and Rivera, J.

A115514 Nicole Lee
v.
Jerlyn L. Smith
Cause called. Razi A. Shah argued for appellant Smith. Jana Carter argued for respondent. Cause submitted.

A114398 Cleghorn Bar Enterprises et al.
v.
William F. Garlock et al.
Cause called. E. Jeffrey Banchemo argued for appellants Enterprises et al. Brian W. Newcomb argued for respondents. Cause submitted.

Court adjourned at 4:02 p.m.

Tuesday, November 13, 2007 (continued)

Division Five

A114374 – Carol L. Slater v. Vincent Lera, et al.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Wednesday, November 14, 2007

Division One

A116973 – The People v. David Lynn Campbell.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

A116291 – The People v. Jay A. Suham.

The amount of the parole revocation fine is reduced from \$2,800 to \$2,400. The sentence imposed upon defendant is also modified to reflect a total state prison term of 12 years, and a separate six-month consecutive county jail term. The clerk of the superior court is directed to amend the abstract of judgment accordingly and forward a certified copy to the Department of Corrections. In all other respects the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A110733 – In re Carlos D., a Person Coming Under the Juvenile Court Law. The People v. Carlos D.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A113528 – Gary P. Poon v. Gordon M. Poon.

The judgment is modified to provide that the \$662,500 in compensatory damages and prejudgment interest thereon of \$323,284.93 awarded to respondent shall instead be added to the monetary judgment in favor of Speedgain. As so modified, the judgment is affirmed. Respondent is awarded his costs on appeal. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A115691 – Estate of Harold D. Thrweatt, Deceased. Geneva McGee v. Eugene L. Rose et al.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

A115359 – Dennis Sandell Ott v. Kathleen E. McCasey.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

Division Three

A116128 – In re Gabriel C., a Person Coming Under the Juvenile Court Law. Humboldt County Department of health & Human Services v. Loren O.

The dispositional order is reversed as to appellant. Siggins, J. We Concur: Pollak, Acting P.J., Horner, J.*

* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, November 14, 2007 (continued)

Division Three

A117343 – The People v. Walter Watrous, Jr.

The judgment is affirmed. Siggins, J. We Concur: Pollak, Acting P.J., Horner, J.* (Not for Publication.)

Division Four

A117043 – In re Devin H., a Person Coming Under the Juvenile Court Law. The People v. Devin H.

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

A113267 – Debora Rosen, Individually and as Personal Representative, etc., et al. v. Regents of The University of California.

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

A117736 – The People v. Frank Torris Gonsalves, Jr.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Needham, J. (Not for Publication.)

A117303 – In re Tyler T., a Person Coming Under the Juvenile Court Law. Contra Costa County Children and Family Services Bureau v. Tyrone T.

The order is affirmed. Simons, J. We Concur: Jones, P.J., Needham, J. (Not for Publication.)

* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, November 15, 2007

Division One

A118308 – The People v. Jason Brent Tidwell.

We find no arguable issues that require further briefing and accordingly, affirm the judgment. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

A113662 – Mohammad Kashmiri et al. v. The Regents of the University of California.

By the Court: It is ordered that the opinion filed herein on November 2, 2007, be modified as follows: (See order.) There is no change in the judgment. Haerle, Acting P.J. (Certified for Publication.)

A115732 – The People v. Thomas Bonnetta et al.

The orders purportedly striking the additional terms of imprisonment pursuant to section 1385 are reversed. Richman, J. We Concur: Haerle, Acting P.J., Lambden, J. (Certified for Publication.)

Division Three

A116872 – In re Halley M., a Person Coming Under the Juvenile Court Law. Contra Costa County, Bureau of Children and Family Services v. Joyce M.

The juvenile court's order is affirmed. McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication.)

A118599 – The People v. Michael LaFlam.

The judgment is ordered modified only as to presentence custody credits. The trial court is instructed to amend the abstract of judgment to reflect the presentence custody credits for case numbers CR034229 and CR907403, which the trial court calculated and announced at sentencing in this case. The trial court should then forward a certified copy of the amended abstract of judgment to the Department of Corrections. (§§ 1213, 1216.) In all other respects, the judgment is affirmed. Horner, J.* We Concur: Pollak, Acting P.J., Siggins, J. (Not for Publication.)

* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

Thursday, November 15, 2007

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Simons, J., Gemello, J., Needham, Jr., J., Richard H. Sandvik, Deputy Clerk.

- A117153 Bernardino Vergara et al.,
v.
Francisco Bermudez.
Cause called and argued by Gordon J. Finwell, counsel for appellant, and by Wayne A. McFadden and Martin Meyer Eisenberg, counsel for respondent. Cause ordered submitted.
- A116758 Francis Collins,
v.
City of Alameda.
Cause called and argued by Gregory L. Harper, counsel for appellant, and by Michael W. Stamp, counsel for respondent. Cause ordered submitted.
- A115436 Dean Hanson,
v.
P&N Corporation, et al.
Cause called and argued by David N. Kuhn, counsel for appellant, and by Michael Williams, Michael Guta, counsel for respondents. Cause ordered submitted.
- A115892 In re Anthony Jamal W. a Person Coming Under the Juvenile Court Law.
The People,
v.
Anthony Jamal W.
Cause called and argued by Ramiah Shanti Brien, counsel for appellant, and by Jeffery Bryant, counsel for respondent. Cause ordered submitted.
- A113586 Sandra Louise Noble,
v.
Alina Sierra Castor.
Cause called and argued by George J. Kovacevich, counsel for appellant, and by Joseph G. Baxter, counsel for respondent. Cause ordered submitted.

A116375 Gustave William Link,
v.
Vortex Diving, Inc.
Cause called and argued by Gustave William Link, appellant in pro per, and by Rupert P. Hansen, counsel for respondent. Cause ordered submitted.

A112647 The People,
v.
Dino Smith.
Cause called and argued by Geri L. Green, counsel for appellant, and by Arthur P. Beever, counsel for respondent. Cause ordered submitted.

A116483 The People,
v.
Lordy Wilkerson, Jr.
Cause called and argued by Kari E. Hong, counsel for appellant, and by Dorian Jung, counsel for respondent. Cause ordered submitted.

At 11:49 a.m. the court recessed until 1:30 p.m.

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

Thursday, November 15, 2007

Court convened at 1:30 p.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Simons, J., Gemello, J., Needham, Jr., J., Richard H. Sandvik, Deputy Clerk.

- A114284 Michael Nadelman,
v.
Jermey Paul.
Cause called and argued by Douglas A. Applegate, counsel for appellant, and by Michael B. Carroll, counsel for respondent. Cause ordered submitted.
- A114842 Michael Nadelman,
v.
Jermey Paul.
Cause called and argued by Douglas A. Applegate, counsel for appellant, and by Michael B. Carroll, counsel for respondent. Cause ordered submitted.
- A116089 Robert Kinann,
v.
California Insurance Guarantee Association.
Cause called and argued by Graden R. Tapley, counsel for appellant, and by Julie R. Ursic, counsel for respondent. Cause ordered submitted.

Court adjourned at 2:16 p.m.

Friday, November 16, 2007

Division One

A114773 – Maria Velasquez et al. v. Monika Khushf.

The order appealed from is reversed to the extent that it awarded respondents \$35,497.50 in attorney fees. In all other respects it is affirmed. Appellant is entitled to costs on appeal. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Three

A119502 – James Patrick Conway v. The Superior Court of Solano County; The People, R.P.I.

This court may employ the accelerated *Palma* procedure when petitioner's entitlement to relief is so obvious that no purpose could reasonably be served by plenary consideration of the issue . . . or when there is an unusual urgency requiring acceleration of the normal process. (*Ng v. Superior Court* (1992) 4 Cal.4th 29, 35; see also *Lewis v. Superior Court* (1999) 19 Cal.4th 1232, 1236-1237, 1240-1241.) Here, the Attorney General does not oppose the merits of the petition. Both he and the petitioner express concern that this matter be dealt with expeditiously-suggesting urgency requiring a speedy disposition. A prompt decision is desirable in order to preserve the December 12 trial date. Consequently, let a peremptory writ of mandate issue commanding respondent superior court to vacate its October 15, 2007 order to strike, thereby having the matter assigned to an appropriate judge to rule on the Statement of Disqualification. This decision is final as to this court immediately. (Cal. Rules of Court, rule 8.264(b)(3).) Pollak, Acting P.J. We Concur: Siggins, P.J., Horner, J.* (Not for Publication.)

Division Five

A114872 – The People v. Jeffrey Scott Vinson.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Needham, J. (Not for Publication.)

A116677 – Estate of Mary Elizabeth Pippins, Deceased. David Jah v. Kathy Pippins.

The order of the probate court is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, November 19, 2007

Division One

A114840 – Carol Brumley et al. v. FDCC California, Inc., et al.

By the Court: It is ordered that the opinion filed herein on October 22, 2007, be modified as follows: (See order.) There is no change in the judgment. Appellants' petition for rehearing is denied. Margulies, Acting P.J. (Certified for Publication.)

Division Two

A110850 – The People v. Maunice Sandefur, et al.

A118229 – In re Michael J. Crummer on Habeas Corpus.

The findings that Maunice Sandefur suffered prior prison term convictions on September 21, 1994, and November 22, 1999, as alleged for the first time in the second amended information filed on March 25, 2005, are stricken. Sandefur's sentence is modified to strike the two one-year section 667.5(b) enhancements imposed for these two prior convictions. With a reduction of two years, Sandefur's sentence is now 11 years.

Crummer's sentence is modified to strike one of the one-year section 667.5(b) enhancements imposed for one of the June 24, 1992, convictions. With this reduction of one year, Crummer's sentence is now 36 years to life.

The trial court is directed to prepare amended abstracts of judgment reflecting these modifications and to forward certified copies to the Department of Corrections. As modified, the judgment is affirmed. Crummer's petition for writ of habeas corpus is denied. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A117051 – Cheryl Murphy v. Roger Burch, et al.

The judgment appealed from is reversed and the matter remanded to the trial court with direction to enter judgment in favor of appellants. Haerle, Acting P.J. We Concur: Lambden, J., Richman, J. (Certified for Publication.)

A114344 – The People v. Timothy J. Anderson.

The decision of the trial court is reversed and the matter remanded to the trial court for resentencing. Kline, P.J. We Concur: Lambden, J. Richman, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Monday, November 19, 2007

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J. Lambden, J., Sergeant Sherry and I. Santos, Deputy Clerk.

A116907 Patrick Dengler,
v.
Doe 1 et al.
Cause called and argued by Ronald Norman, counsel for appellant, and Adrienne Moran, counsel for respondent. Cause ordered submitted.

At this point of the proceedings, Presiding Justice Kline left the bench and Justice Haerle became the Acting Presiding Justice. Justice Richman joined the bench for the remainder of the calendar.

A115662 James E. Morrison et al.,
v.
Copeland Corporation.
Cause called and argued by Thomas Armstrong, counsel for appellant, and Dean Hanley, counsel for respondent. Cause ordered submitted.

A114690 Tom Gray et al.,
v.
Mon Van Moving Services et al.
Cause called and argued by John Carey, counsel for appellant, and Kim Schumann, counsel for respondent. Cause ordered submitted.

Court recessed until Tuesday, November 20 at 9:30 a.m.

Monday, November 19, 2007 (continued)

Division Three

A114692 – JPI Westcoast Construction, L.P. v. RJS & Associates, Inc., Great American Insurance Company, Transcontinental Insurance Company.

By the Court: Good cause appearing, this court's opinion filed on October 26, 2007, is now certified for publication and said opinion shall now be published in the Official Reports. McGuiness, P.J. (Certified for Publication.)

Division Four

A115994 – San Francisco Community College District et al.. v. Kennan & Associates.

The October 2006 order denying Kennan's motion to compel arbitration is affirmed. SFUSD, SFCCD, TJPA, and Herrera are entitled to their costs on appeal. Reardon, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Division Five

A115132 – William Sigman et al. v. Sulpicio Mariano.

The judgment is affirmed. Costs on appeal are awarded to respondent. Needham, J. We Concur: Simons Acting P.J., Gemello, J. (Not for Publication.)

A112266 – In re the Marriage of Leslie Ann and Anthony Patrick DeVito. Leslie Ann DeVito v. Anthony Patrick DeVito.

The judgment is affirmed. Jones, P.J. We Concur: Gemello, J., Needham, J. (Not for Publication.)

Tuesday, November 20, 2007

Division One

A116214 – In re Timothy M. et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Michael M. et al.

The juvenile court's order is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

A114623 – Cold Creek Compost, Inc. et al. v. State Farm Fire and Casualty Company.

The judgment is affirmed. Marchiano, P.J., We Concur: Swager, J., Margulies, J. (Certified for Publication.)

Division Two

A116633 – Barry Bronk et al. v. Newport Insurance Co.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A115683 – The People v. Antawuine Ricardo Powers.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Tuesday, November 20, 2007

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Richman, J., Sergeant Sherry and I. Santos, Deputy Clerk.

- A115524 Sharon L. Less et al.,
v.
San Francisco Fairmont Hotel Company.
Cause called and argued by Tabatha Yin, counsel for appellant, and Sharon Hightower, counsel for respondent. Cause ordered submitted.
- A117774 Zia Nawabi,
v.
Department of Motor Vehicles.
Cause called and argued by Raymond Hamilton, counsel for appellant, and Frank DeBenedetto, counsel for respondent. Cause ordered submitted.
- A116583 Alex Cotta et al.,
v.
City and County of San Francisco.
Cause called and argued by Andrew Schwartz, counsel for appellant, and Scott Wiener, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Tuesday, November 20, 2007

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco, California. Present: Kline, P.J., Lambden, J., Richman, J., Officer Bartlett and S. Wheeler, Deputy Clerk.

- A116706 Otis D. Turner et al.,
 v.
 D. Harvie Investments et al.
Cause called and argued by Sarah B. Allman, counsel for appellants, and Stephen Collier, counsel for respondents. Cause ordered submitted.
- A112705; Tamalpais Union High School District
A112830; v.
A113358 Jennifer E. Gill, a Minor, etc., et al.;
 Tamalpais Union High School District
 v.
 Presidio Sport & Medicine.
Cause called and argued by Gregory Emerson Stubbs, counsel for appellant and cross-respondent Tamalpais, Thomas Packer, counsel for appellant and cross-respondent Presidio, and James Costello, counsel for respondent and cross-appellant Gill. Cause ordered submitted.
- A115164 The People
 v.
 Richard O'Neal Dean.
Cause called and argued by Violet Elizabeth Grayson, via teleconference, counsel for appellant, and Rene Chacon, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

Tuesday, November 20 2007 (continued)

Division Three

A115988 – Luis M., a Minor, etc., v. Hayward Unified School District.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Division Four

A116673 – Prana Nine Properties, LLC. v. Yue Chang Ye.

The judgment of the trial court is affirmed. Costs on appeal are awarded to respondent. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A117235 – In re Christopher B., a Person Coming Under the Juvenile Court Law. The People v. Christopher B.

The juvenile court sustained a subsequent petition against its ward, appellant Christopher B., based solely on accomplice Brice's uncorroborated testimony. Because his testimony need not be corroborated, we affirm the jurisdictional order. (*Mitchell P.*, *supra*, 22 Cal.3d at p. 949.) For all the reasons set forth above, we concur with appellant that *Mitchell P.* warrants reevaluation. Reardon, J. We Concur: Ruvolo, P.J., Rivera, J. (Certified for Publication.)

Division Five

A111686 – The People v. Thompson Lee Bryson, Jr.

The judgment is reversed. The case is remanded to the superior court for a new trial. Needham, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Wednesday, November 21, 2007

Division One

A116895 – Steven P. Scagliotti et al. v. Brian M. Carter et al.

The order granting preliminary injunctive relief is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

A113240 – The People v. Nicholas Burt Floyd.

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

A116279 – Eskanos and Adler v. Thomas Lutge.

The order for an injunction prohibiting violence or threats of violence by appellant against Ryan White, his family members, and employees of respondent is affirmed. Richman, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A105299 – The People v. Paul Eric Shea.

Our prior opinion in *Shea II* is hereby vacated. The matter is remanded for resentencing in light of *Blakely*, *Cunningham*, and the views expressed herein. Following resentencing, the clerk of the superior court is directed to prepare an amended abstract of judgment, and to forward a certified copy to the Department of Corrections and Rehabilitation. The judgment of conviction is affirmed in all other respects. Richman, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Five

A115892 – In re Anthony W., a Person Coming Under the Juvenile Court Law. The People v. Anthony W.

The appeal is dismissed as to defendant's challenge to the orders committing him to the DJF and directing him to pay restitution. Defendant's August 21, 2007 motion to deem the notice of appeal timely filed is denied. This matter is remanded to the juvenile court for correction of its orders to reflect that the counts sustained on October 31, 2005 were violations of Penal Code section 288, subd. (a), to delete the Welfare and Institutions Code section 707, subdivision (b) designation of the offenses and to modify other aspects of its orders as appropriate following deletion of the section 707, subdivision (b) designation. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A116376 – Gustave William Link v. Vortex Marine Construction, Inc., et al.

The judgment is affirmed. Needham, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, November 21, 2007

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, and San Francisco, California. Present: Presiding Justice McGuiness., Siggins, J., and Horner, J., pro tem and P. Acosta, Deputy Clerk.

A115844 Estate of STEVEN GREENBERG, Deceased.

SUSAN ZARET,

v.

JIM MORAN et al.,

Cause called and argued by Thomas Franceschini, counsel for appellant, and Joshua Markowitz, counsel for respondent. Cause ordered submitted.

A116946 Estate of STEVEN GREENBERG, Deceased.

SUSAN ZARET,

v.

JIM MORAN et al.,

Cause called and argued by Thomas Franceschini, counsel for appellant, and Joshua Markowitz, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Pollak joined the bench. Justice Horner left the bench.

A115656 Plumbers and Steamfitters Local 290,

v.

John M. Rea et al.

Cause called and argued by Chris Jagard, counsel for appellant, and Eric Myers, counsel for respondents. Cause ordered submitted.

At this point in the proceedings, Horner, J., pro tem joined the bench. and Justice Siggins left the bench.

A112828 The People,

v.

Aaron Augustine Heredia.

Cause called and argued by John McCabe, counsel for appellant, and Nanette Winaker, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Siggins joined the bench and Presiding Justice McGuiness left the bench.

A116403 In re TRINITY G., a Person Coming Under the Juvenile Court Law.

Marin County Health & Human Serv,

v.

Krishna G., et al.,

Cause called and argued by Kate Chandler, counsel for appellant, via teleconference, Laureen Bethards counsel for appellant, and Jessica Mills, counsel for respondent. Cause ordered submitted.

A115614 Kandice Coscia,
A115618 v.

Kimberly Binder and Azel Grasty.

Cause called and argued by Deb Graceffa, counsel for respondent, Kimberly Binder and Azel Grasty appellants in pro-per, via teleconference, Cause ordered submitted.

A113295 The People,
v.

Shakema Yvette Brooks.

Cause called and argued by Robert Gehring, counsel for appellant, and Arthur Beever, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED

Monday, November 26, 2007

Division Two

A109084 – The People v. Edward Lee Learn.

Our prior decision in *Learn I* is hereby vacated. The judgment of conviction is affirmed. Richman, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A118203 – In re Jake M., a Person Coming Under the Juvenile Court Law. The People v. Jake M.

The judgment and sentence are affirmed. Kline, P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

A111005 – The People v. Kenneth Alan Jorgensen.

Our prior decision in *Jorgensen I* is hereby vacated. The judgment of conviction is affirmed. Richman, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

A113888 – The People v. Lyman Lynn Sims, Sr., et al.

The judgments are affirmed. Siggins, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

A118618 – The People v. Yolanda Faye Lee.

The judgment is affirmed. Siggins, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

A115681 – In re Mario L., a Person Coming Under the Juvenile Court Law. Contra Costa County Children & Family Services Bureau v. Martha P. et al.

By the Court: The petitions for rehearing are denied. McGuiness, P.J.

A117288 – In re Curtis Lee, on Habeas Corpus.

By the Court: The petitions for rehearing are denied. McGuiness, P.J.

Monday, November 26, 2007 (continued)

Division Three

A117288 – In re Curtis Lee, on Habeas Corpus.

The petition for writ of habeas corpus is granted. The decision of the Governor to reverse the Board's 2006 finding that petitioner is suitable for parole is vacated. The Board's 2006 determination that petitioner is suitable for parole is reinstated as of the date this opinion is final. The Governor, in his discretion, may thereafter consider whether to exercise his authority under California Constitution, article V, section 8, subdivision (b) and Penal Code section 3041.2. This case is remanded to the Governor. Siggins, J. I Concur: McGuiness, P.J. (See concurring and dissenting opinion by Pollak, J.)

A115392 – The People v. Raheen Ahmad Hanif.

The judgment is affirmed. McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication.)

Division Four

A116623 – The People v. Sean Thompson.

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

A116869 – Daniel Josef Blackwood v. Nancy Wilcox et al.

The judgment is affirmed. Respondents shall recover their costs on appeal. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Division Five

A116688 – Nancy Zare v. Klemmer & Associates, Inc.

The judgment is affirmed. Respondents shall recover their costs on appeal. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A115314 – The People v. Angela Bianca Chew.

The judgment is affirmed. Needham, J. We Concur: Simons, Acting P.J., Gemello, J. (Not for Publication.)

Tuesday, November 27, 2007

Division One

A113421 – The People v. Charles Branch.

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A113232 – The People v. Taylor Roy Shepherd.

The judgment is modified to stay the eight-year sentence on count I and the four-year sentence on count II, pending finality of the judgment and service of the nine-year enhanced sentence for count III, such stay to become permanent upon completion of the enhanced sentence for count III. The trial court is ordered to prepare an amended abstract of judgment to reflect this modification and to forward the amended abstract to the Department of Corrections. As so modified, the judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

A116726 – The People v. Guillermo C. Gonzalez.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

A105399 – The People v. Robert Allen Wigley.

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

A113880 – The People v. Maxiam Hachler.

The judgment of conviction under section 311.11, subdivision (a) is reversed. The trial court is directed to vacate the verdict with respect to this charge and to prepare and forward to the Department of Corrections an amended abstract of judgment. In all other respects, the judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A117265 – The People v. Sean Ronald Peaslee.

The judgment of conviction is affirmed. Richman, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A116220 – Penelope Barber v. Tracey Lee Abreu.

The judgment is affirmed. Richman, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Tuesday, November 27, 2007 (continued)

Division Three

A118260 – In re Derrick J., a Person Coming Under the Juvenile Court Law. The People v. Derrick J.

The juvenile court's dispositional order is affirmed. Horner, J.* We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

A114499 – The People v. Matthew Kehoe.

The judgment is affirmed. Horner, J.* We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

A117131 – In re Veronica G. et al., Persons Coming Under the Juvenile Court Law. San Mateo County Human Services Agency v. Christy G. et al.

The juvenile court's jurisdictional order is affirmed, and the matter is remanded to the juvenile court with directions to comply with inquiry and notice provisions of the ICWA, if it has not already done so. After proper notice under the ICWA, if it is determined that either Veronica or Samuel is an Indian child and the ICWA applies to these proceedings, parents are entitled to petition the juvenile court to invalidate orders that violated the ICWA. (See 25 U.S.C. § 1914; California Rules of Court, rule 5.664(n)(1).) Horner, J.* We Concur: McGuiness, P.J., Siggins, J. (Certified for Publication.)

A115614 – Kandice Coscia v. Kimberly Binder.

A115618 – Kandice Coscia v. Azel Grasty.

The trial court's orders is affirmed in all respects. Respondent shall recover costs on appeal. Horner, J.* We Concur: Pollak, Acting P.J., Siggins, J. (Not for Publication.)

* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

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MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, November 27, 2007

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Reardon, Acting P.J., Sepulveda, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Kevin Bartlett, Bailiff.

A116666 Law Offices of Bruce E. Krell
A116674 v.
A116812 Allstate Indemnity et al.

Causes called. Jerome Garchik argued for appellant Law. Richard L. Reynolds argued for respondent Ross. Jeff Butler argued for respondent Allstate. Causes submitted.

A114507 People
 v.
 Kevin Andre Shumake

Cause called. Ozro Childs argued for appellant Shumake. Moona Nandi argued for respondent. Cause submitted.

At this point, the court reconstituted itself to include Ruvolo, P.J., Reardon, J. and Rivera, J.

A114308 Denise Boucher
 v.
 Stephen Wisniewski

Cause called. Michael Sorgen argued for appellants. Julian Standen argued for respondents. John P. Phillips argued for real party in interest Dell, Inc. Cause submitted.

Court adjourned at 2:37 p.m.

Tuesday, November 27, 2007 (continued)

Division Four

A116944 – The People v. Oscar Adrian Beltran.

Count two of the judgment is reversed. The judgment is affirmed in all other respects. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Certified for Publication.)

A116445 – The People v. Lee Roy Robblee II.

The judgment is modified to reduce both the \$1,000 restitution fine and the \$1,000 parole revocation fine to fines of \$200 each. The trial court shall amend the abstract of judgment accordingly. As modified, the judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

**A116359 – In re Jason G., a Person Coming Under the Juvenile Court Law.
Alameda County Social Services Agency v. Jason G.**

The juvenile court's judgment (dispositional order) is modified to reflect that the court's jurisdictional finding was based on section 300, subdivision (b), only. In all other respects, the judgment is affirmed. Simons, Acting P.J. We Concur: Gemello, J., Needham, J. (Not for Publication.)

Wednesday, November 28, 2007

Division One

A113902 – Nicholas Panoutsopoulos et al. v. Denice Chambliss et al.

The order granting plaintiffs' petition is reversed. The attorneys are awarded their appellate costs. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Certified for Publication.)

Division Two

A117660 – In re D.L., a Person Coming Under the Juvenile Court Law. The People v. D.L.

Our independent review of the record reveals no arguable issues. Accordingly, the judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A113662 – Mohammad Kashmiri et al. v. The Regents of the University of California.

By the Court: It is ordered that the opinion filed herein on November 2, 2007, and previously modified on November 15, 2007, be modified as follows: (See order.) There is no change in the judgment. Haerle, Acting P.J. (Certified for Publication.)

A118003 – The People v. David Allen Duato.

The judgment and sentence imposed are affirmed. Kline, P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

A117585 – In re Raymond W., a Person Coming Under the Juvenile Court Law. The People v. Raymond W.

The judgment and detention imposed are affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A116907 – Patrick Dengler v. Doe 1 et al.

The judgment is reversed. Dengler is awarded the costs of appeal. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A113738 – The People v. Carl E. Perkins.

The judgment is affirmed. Pollak, Acting P.J. We Concur: Siggins, J., Horner, J.* (Not for Publication.)

* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, November 28, 2007 (continued)

Division Three

A112828 – The People v. Aaron Heredia.

The judgment is affirmed. McGuiness, P.J. We Concur: Pollak, J., Horner, J.* (Not for Publication.)

A113827 – The People v. Douglas Conerly et al.

Defendants' convictions for receiving stolen property under count four are vacated. The judgments are affirmed in all other respects. Pollak, Acting P.J. We Concur: Siggins, J., Horner, H.* (Not for Publication.)

A115844 – Estate of Steven Greenberg, Deceased. Susan Zaret v. Jim Moran et al.

A116946 – Estate of Steven Greenberg, Deceased. Susan Zaret v. B.K., a Minor, etc.

The orders are reversed and the matter is remanded to the probate court. Appellant is awarded costs in both appeals. Siggins, J. We Concur: McGuiness, P.J., Horner, J.* (Not for Publication.)

A116554 – In re David C., a Person Coming Under the Juvenile Court Law. Contra Costa County Children & Family Services Bureau v. Adele C.

The orders are affirmed. Siggins, J. We Concur: Pollak, Acting, P.J., Horner, J.* (Not for Publication.)

Division Four

A112228 – The People v. Miguel Aguirre Gutierrez.

The judgment is affirmed. Ruvolo, P.J. I Concur: Reardon, J. (See dissenting opinion by Rivera, J.)

* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

November 28, 2007 (continued)

Division Four

A114704 – Delmont Waqia v. City of Oakland.

The order granting summary adjudication of Waqia's second and third causes of action is affirmed. The judgment is affirmed in its entirety. The City is entitled to its costs on appeal. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A117258 – Eileen Heaton, Individually and as Guardian ad Litem, etc., et al. v. Pacific Specialty Insurance Company.

Under the hybrid nature of the policy at issue in this case, the Heaton's never had a claim against the landlords for bodily injury. Accordingly, the summary judgment in favor of Pacific Specialty is affirmed. Reardon, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Division Five

A115436 – Dean C. Hanson v. P & N Corp., et al.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A117944 – In Peter L. & Brianna L., Persons Coming Under the Juvenile Court Law. Sonoma County Department of Children's Services v. Peter L.

The order terminating Father's parental rights is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Thursday, November 29, 2007

Division One

A118145 – The People v. Allen L. Keltner.

After a full review of the record, we find no arguable issues and, accordingly, affirm the order. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A102205 – The People v. Darryeal Woodrow Wilson.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

A116243 – Gloria Guerra v. Alameda Police Department et al.

The trial court's judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J.

Division Two

A117632 – The People v. Annette Perez.

The fee referred to as the "CJA booking fee" for the sum of \$170 shall be stricken from the minute order and the abstract of judgment. The judgment is otherwise affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A116231 & A116462 – Terry Bakkie v. Union Carbide Corporation.

As the Supreme Court has held, "[w]hen the award as a matter of law appears excessive or where the recovery is so grossly disproportionate as to raise a presumption that it is the result of passion or prejudice, the duty is then imposed upon the reviewing court to act." (Cunningham v. Simpson, supra, 1 Cal.3d at pp. 308-309.) This, we conclude, is one of those very rare awards. Accordingly, the judgment is reversed and the cause remanded for a new trial solely on the issue of future noneconomic damages unless, within 30 days from the filing of our remittitur in the trial court, plaintiff shall remit from the judgment all future noneconomic damages except the sum of \$3,100,000. In all other respects the judgment is affirmed. If plaintiff elects to accept such remission, the judgment shall stand affirmed in full. The order denying Union Carbide's motion for judgment notwithstanding the verdict is also affirmed. The parties will bear their respective costs on appeal. Lambden, J. We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

A117373 – In re Jordan B., a Person Coming Under the Juvenile Court Law. The People v. Jordan B.

The February 20, 2007 dispositional order is affirmed. Richman, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Thursday, November 29, 2007 (continued)

Division Two

A114191 – The People v. Dwight Donohue Morrell.

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

A114235 – The People v. McKinley William Garry.

By the Court: It is ordered that the opinion filed herein on November 13, 2007, be modified as follows: (see order). The trial court's judgment in case No. VCR178540 and its probation modification order in case No. VCR162584 are reversed, and the matters remanded for further proceedings consistent with this opinion. Kline, P.J. (Certified for Publication.)

A113240 – The People v. Nicholas Burt Floyd.

By the Court: It is ordered that the opinion filed herein on November 21, 2007, be modified as follows: (see order). There is no change in the judgment. Kline, P.J. (Not for Publication.)

A114344 – The People v. Timothy J. Anderson.

By the Court: It is ordered that the opinion filed herein on November 19, 2007, be modified as follows: (see order). There is no change in the judgment. Kline, P.J. (Not for Publication.)

A109854 – The People v. Jorge Magana.

Our opinion in *Magana I* is vacated. The cause is remanded to the trial court for resentencing in accordance with this opinion. The judgment of conviction is affirmed in all other respects. Richman, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

A114087 – The People v. Jared Fonua.

The judgment is affirmed. Siggins, J. We Concur: McGuiness, P.J., Horner, J.* (Not for Publication.)

A117695 – In re Paul T., a Person Coming Under the Juvenile Court Law. The People v. Paul T.

The juvenile court's jurisdictional and dispositional orders are affirmed. Horner, J.* We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, November 29, 2007 (continued)

Division Three

A116403 – In re T.G., a Person Coming Under the Juvenile Court Law. Marin County Department of Health and Human Services v. David M. et al.

The order terminating parental rights is affirmed. Pollak, Acting P.J. We Concur: Siggins, J., Horner, J.* (Not for Publication.)

A118310 – The People v. Jeffrey Allen Boes.

The judgment is affirmed. McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication.)

Division Four

A115996 – The People v. Michael Babers.

The order sustaining the revocation of probation is affirmed. Ruvolo, J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A115107 – The People v. Michael E. Lewis.

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

A116698 – In re Joseph B., a Person Coming Under the Juvenile Court Law. The People v. Joseph B.

The order of probation is ordered modified to strike the condition giving the probation department the discretion to impose up to five weekends in juvenile hall for violations of probation. In all other respects, the judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, November 29, 2007 (continued)

Division Five

A119149 – In re Eric Lockhart, on Habeas Corpus.

Therefore, the petition for writ of habeas corpus is granted. A writ of habeas corpus shall issue commanding the superior court to forthwith amend the abstract of judgment to delete the restitution fine of \$1,000 under Penal Code section 1202.45, and immediately forward a certified copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation. This decision shall be final as to this court immediately (Cal. Rules of Court, rule 8.264(b)(3)), and the remittitur shall issue forthwith (id., rule 8.272(c)(1)). Gemello, J. I Concur: Simons, Acting P.J.

A117842 – The People v. Edrick Steven Reisinger.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J.

A117419 – The People v. James Itsuki McClary.

The judgment is affirmed. Needham, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A116483 – The People v. Lordy Wilkerson, Jr.

The judgment is affirmed. Jones, P.J. We Concur: Gemello, J., Needham, J. (Not for Publication.)

A118994 – Rhedema P. v. The Superior Court of Alameda County; Alameda County Social Services Agency et al.

The petition and request for stay are denied. Needham, J. We Concur: Simons, Acting P.J., Gemello, J. (Not for Publication.)

A118446 – In re Sean M., a Person Coming Under the Juvenile Court Law. The People v. Sean M.

The disposition is affirmed. Jones, P.J. We Concur: Gemello, J., Needham, J. (Not for Publication.)

Friday, November 30, 2007

Division One

A114680 – Conservatorship of the Person and Estate of Wong Shou Chen. Debra J. Dolch, as Conservator, etc. v. Maria Fang.

The May 19, 2006, order, and the order denying the motion for reconsideration thereof, are affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A117508 – In re Frederick R., a Person Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services v. Angelina R.

The juvenile court's order is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

A116797 – Lisa M. Pereira v. Steven S.

The order is affirmed. Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Three

A116212 – The People v. Pierre Adanandus.

The judgment is affirmed. Horner, J.* We Concur: McGuiness, P.J., Siggins, J. (Certified for Publication.)

A115653 – The People v. George Braggs.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Horner, J.* (Not for Publication.)

A116538 – The People v. Sharee Martell Hall.

The judgment is affirmed. Siggins, J. We Concur: Pollak, Acting P.J., Horner, J.* (Not for Publication.)

* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

November 30, 2007 (continued)

Division Three

A117101 – In re L.S., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. L.S.

The order terminating jurisdiction is affirmed and the matter is remanded with directions to order the department promptly to comply fully with the requirements of section 391, as described herein. Pollak, Acting P.J. We Concur: Siggins, J., Horner, J.* (Not for Publication.)

A115846 – J.R. Marketing, L.L.C. et al. v. Hartford Casualty Insurance Company.

The trial court's summary adjudication order and enforcement order are affirmed. Hartford shall bear costs on appeal. Horner, J.* We Concur: Pollak, Acting P.J., Siggins, J. (Not for Publication.)

Division Four

A116570 – Christine Phelps v. Michael Saffian.

We reverse the orders of November 15, 2006, and December 29, 2006, to the extent they deny child and spousal support retroactive to June 10, 2005. The matter is remanded to determine the amount of offset for support payments made to or on behalf of Phelps and their daughter during the period in question. Saffian to pay costs on appeal. Reardon, J. We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

A117658 – The People v. John G. Mendoza.

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

A117841 – The People v. Stephen Earl Scally.

Judgment affirmed. Reardon, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Division Five

A113829 – The People v. Brian Keaton George.

The judgment is affirmed. Simons, Acting P.J. We Concur: Gemello, J., Needham, J. (Not for Publication.)

* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

November 30, 2007 (continued)

Division Five

A116050 – The People v. Cory Bruce Adams.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

A115185 – The People v. Jerald Walter Brazley.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Needham, J. (Not for Publication.)

A110774 – The People v. Malik Ali Muhammad.

The convictions on counts 1 through 3 and sentence imposed thereon are vacated. The convictions on counts 4 and 5 and sentencing on these counts are affirmed. Simons, J. We Concur: Jones, P.J., Needham, J. (Certified for Partial Publication.)

A116242 – Willem Vroegh et al. v. Eastman Kodak Company et al., David Klausner et al.

The orders approving the class action settlement and awarding fees and costs are affirmed. Jones, P.J. We Concur: Gemello, J., Needham, J. (Not for Publication.)